

LISA MARIE JERDE SPILLMAN (WY State Bar No. 7-5450)

lisa@jerdspillmanlaw.net  
JERDE SPILLMAN LAW LLC  
7527 Jessica Drive  
Cheyenne, WY 82009  
Telephone (307) 314-8091

DAVID M. GOSSETT (DC Bar No. 468390; *pro hac admission pending*)

davidgossett@dwt.com  
DAVIS WRIGHT TREMAINE LLP  
1301 K Street NW, Suite 500 East  
Washington, DC 20005  
Telephone: (202) 973-4200

STEPHEN GANNON (VA State Bar No. 17649; *pro hac admission pending*)

stevegannon@dwt.com  
LISA WEINGARTEN RICHARDS (VA State Bar No. 96671; *pro hac admission pending*)  
lisarichards@dwt.com  
DAVIS WRIGHT TREMAINE LLP  
4870 Sadler Road, Suite 301  
Glen Allen, VA 23060  
Telephone: (804) 762-5320

*Attorneys for [Proposed] Amici Curiae*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING**

CUSTODIA BANK, INC.,

*Plaintiff,*

v.

FEDERAL RESERVE BOARD OF  
GOVERNORS and FEDERAL RESERVE  
BANK OF KANSAS CITY,

*Defendants.*

No. 1:22-cv-00125-SWS

**UNOPPOSED MOTION OF SENATOR CHIRSTOPHER ROTHFUSS AND  
REPRESENTATIVE JARED OLSEN FOR LEAVE TO FILE BRIEF AS *AMICI CURIAE***

Pursuant to Local Rules 7.1(b)(2)(G) and 83.6(d), Senator Christopher Rothfuss and Representative Jared Olsen, as Co-Chairs of the Wyoming Select Committee on Blockchain, Financial Technology and Digital Innovation Technology (“movants”), by and through their undersigned counsel, move for leave to file the attached *amicus* brief in opposition to defendants’ motions to dismiss (Dkt. Nos. 49, 51) in this case.

### STANDARD

Generally, whether or not to allow the submission of an amicus brief is a matter of judicial discretion. *Rock Springs Grazing Ass’n v. Salazar*, No. 11-CV-263-NDF, 2011 WL 13162054, at \*1 (D. Wyo. Dec. 15, 2011) (relying on *Nat’l Org. for Women, Inc. v. Scheidler*, 223 F.3d 615, 616 (7th Cir. 2000)). An amicus brief is appropriate “when the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *Id.* at \*1 (quoting *Ryan v. CFTC*, 125 F.3d 1062, 1063 (7th Cir. 1997) (internal citations omitted)). Factors considered by courts in exercising their discretion include “the interest of the movant, the opposition of the parties, the adequacy of representation, and timeliness.” *Tribe v. Ashe*, No. 11-CY-347-J, 2012 WL 12915483, at \*2 (D. Wyo. May 18, 2012) (additional citations omitted).

### ARGUMENT

This motion is unopposed: Plaintiff supports movants’ participation as *amici*. Defendant Federal Reserve Bank of Kansas City “does not object to the Committee seeking leave of court to file an amicus so long as it does on or before September 20,” and Defendant Federal Reserve Board of Governors “also does not object subject to this timeline.”

Movants co-chair the Select Committee, which is a bipartisan committee comprised of 4 members of the Wyoming Senate, 4 members of the Wyoming House, and 3 members of the public

(appointed by the Governor).<sup>1</sup> The Select Committee is statutorily tasked with “(i) Develop[ing] knowledge and expertise among its members regarding issues pertaining to blockchain, financial technology and digital innovation technology”; and “(ii) Develop[ing] and introduc[ing] legislation as necessary to promote blockchain, financial technology and digital innovation in Wyoming.”<sup>2</sup> Pursuant to this statutory mandate, the Committee developed the legislation creating the Special Purpose Depository Institution (SPDI) program at issue in this case.<sup>3</sup>

Although movants do not purport to be expert on the questions of federal jurisdiction or the Administrative Procedure Act that underly much of the defendants’ motions to dismiss, movants believe that their knowledge about the statutory framework of the SPDI program, about the system of regulation and examination of SPDIs that the Wyoming Legislature and Wyoming Division of Banking have crafted over the last several years, and about the extensive interactions between both defendants, the Select Committee, and the Wyoming Division of Banking about the SPDI program over the past four years, will assist this Court in understanding the context of this litigation. Given that background, movants believe that the defendants’ delay in granting Custodia the Master Account it seeks unconscionably interferes with Wyoming’s efforts to modernize its banking system and enhance its economic development, and that this Court should take appropriate action to ensure that the defendants process and grant Custodia’s application by a date certain.

No counsel for a party authored the proposed *amicus* brief in whole or in part, and no one besides the movants and their counsel made a monetary contribution intended to fund the preparation or submission of the brief. The proposed *amicus* brief provides information that we

---

<sup>1</sup> See Wyo. Stat. § 28-11-701(a), (c); <https://www.wyoleg.gov/Committees/2022/S19>.

<sup>2</sup> Wyo. Stat. § 28-11-701(b). The Select Committee is the successor to the Wyoming Blockchain Task Force; references to the Select Committee generally include the predecessor Task Force.

<sup>3</sup> See Wyo. Stat. § 13-12-101 *et seq.*

believe will be helpful to the Court (and that is not currently in the briefing), is timely, and is unopposed.

### CONCLUSION

The Court should grant movants leave to participate in this case as *amici curiae*, and should order the Clerk to file the attached *amicus* brief.

Respectfully Submitted,

/s/ Lisa Marie Jerde Spillman  
LISA MARIE JERDE SPILLMAN (WY State Bar No. 7-5450)  
lisa@jerdspillmanlaw.net  
JERDE SPILLMAN LAW LLC  
7527 Jessica Drive  
Cheyenne, WY 82009  
Telephone (307) 314-8091

DAVID M. GOSSETT (DC Bar No. 468390; *pro hac admission pending*)  
davidgossett@dwt.com  
DAVIS WRIGHT TREMAINE LLP  
1301 K Street NW, Suite 500 East  
Washington, DC 20005  
Telephone: (202) 973-4200

STEPHEN GANNON (VA State Bar No. 17649; *pro hac admission pending*)  
stevegannon@dwt.com  
LISA WEINGARTEN RICHARDS (VA State Bar No. 96671; *pro hac admission pending*)  
lisarichards@dwt.com  
DAVIS WRIGHT TREMAINE LLP  
4870 Sadler Road, Suite 301  
Glen Allen, VA 23060  
Telephone: (804) 762-5320

*Attorneys for [Proposed] Amici Curiae*

**CERTIFICATE OF SERVICE**

I hereby certify, on the 20<sup>th</sup> day of September, 2022, a true and correct copy of the foregoing  
was served on counsel, via the Court's electronic system, addressed to:

Joshua Paul Chadwick  
Katherine Pomeroy  
Yonatan Gelblum  
Yvonne Facchina Mizusawa  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street & Constitution Avenue, NW  
Washington, DC 20551

Angela Tarasi  
Christine Carletta  
Jeffrey S. Bucholtz  
Joshua Nathaniel Mitchell  
King & Spaulding LLP  
1401 Lawrence Street  
Suite 1900  
Denver, CO 80202

Billie L. M. Addleman  
Hirst Applegate LLP  
1720 Carey Avenue, Suite 400  
PO Box 1083  
Cheyenne, WY 82003-1083

Scott E. Ortiz  
Williams Porter Day Neville, PC  
PO Box 10700  
Casper WY 82602 So

John K. Villa  
Ryan T. Scarborough  
Sarah M. Harris  
Whitney D. Hermandorfer  
Jamie Wolfe  
Williams & Connolly LLP  
680 Maine Ave SW  
Washington, DC 20024

/s/ Lisa Jerde Spillman